(3)

Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 784 \2006

IN THE MATTER OF

1. Jitendra Kumar Wasan, Aged 41 years,
   S/O Devraj Wasan,
   R/O J.K.House, Kosabadi Colony,
   Korba,
   District Korba (C.G.) (Owner)

Appellant/ Non-Applicant

Versus

1. Kailhi Bai, Aged about 42 years,
   W/O Late Mohit Ram,
2. Samund Bai, Aged about 25 years,
   D/O Late Mohit Ram,
3. Sumitra Bai, Aged 23 years,
   D/O Late Mohit Ram,
4. Ummed Ram Aged 19 years,
   S/O Late Mohit Ram,
5. Ramayan Aged 16 years
   S/O Late Mohit Ram,

All Residents of Village: Saraipali,
Post : Umreli,
Tahsil : Kartala
District: Korba (C.G.)

Respondents / Applicants

P.R. No. 1452/06
Presented by Shri A. M. Tiwari
dated 12/05/06

6. Firat Ram Aged about 42 years,
   S/ O Dhansai
   R/O Bhawarkhol,
   Post Office: Karainara,
   Tahsil : Kartala
   District: Korba (C.G.) (Driver)

7. New India Assurance Co. Ltd.
   Through Branch Manager,
   Branch Office
   Transport Nagar, Korba,
   District: Korba (Chhattisgarh)

Respondents/ Non-applicants

Contd.2

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT 1988

ARISING OUT OF THE ORDER DATED 24.02.2006 PASSED BY SHRI G. K. MISHRA, MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KORBA IN CLAIM CASE NO 151/2003,

MOST RESPECTFULLY SHOWETH: -

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 784 of 2006

Appellant : Jitendra Kumar Wasan

Versus

Respondents : Kailhi Bai & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present : Shri Mukesh Sharma, Advocate for the appellant.
Shri Sourabh Sharma, Advocate for the respondent No. 7.

ORDER

(1st December, 2006)

1. Learned counsel appearing for the appellant submits that the accident in dispute had taken place on 13.5.1990 and at that time 'no fault liability' was to the tune of Rs. 25,000/-. Thereafter, by amendment dated 14.11.1994, the 'no fault liability' amount was enhanced to Rs. 50,000/-.

2. Learned counsel further submits that the owner of the vehicle is not liable to pay the 'no fault liability' as the vehicle was covered under the insurance policy. Even otherwise, since the accident had taken place before 14.11.1994, the amount payable towards 'no fault liability' cannot be more than Rs. 25,000/-.

3. Be that as it may, by order dated 11.8.2006 passed by this Court, the appellant had already deposited a sum of Rs. 25,000/-. The said amount be disbursed to the claimants.

The Additional Motor Accident Claims Tribunal, Korba is directed to consider the issue raised by the appellant, asto who is liable to make payment of 'no fault liability', and what would be the 'no fault liability' after hearing all the concerned parties and recording evidence.

4. In view of the above, the appeal is allowed and the matter is remitted back to the Additional Motor Accident Claims Tribunal, Korba for decision on the issue stated above. No order as to Costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash